

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION

MDL No. 2804

This document relates to:

Case No. 17-MD-2804

ALL CASES

Judge Dan Aaron Polster

**DEFENDANTS' MOTION FOR LEAVE TO FILE SUR-REPLY
IN OPPOSITION TO THE PEC's AMENDED MOTION
FOR ENTRY OF ORDER ESTABLISHING COMMON BENEFIT FUND**

Defendants¹ hereby seek leave to file a 3.5-page sur-reply in opposition to the PEC's Amended Motion for Entry of Order Establishing Common Benefit Fund (Dkt. No. 3112). The PEC's reply (Dkt. No. 3212) is three times the length of its opening brief, attaches a Revised Proposed Corrected Order that differs significantly from the original Proposed Order that Defendants addressed in their responsive brief, and raises new arguments. Defendants should be permitted to respond. *See* Order [non-document] granting Pharmacies' Motion for leave to file a sur-reply, dated as of November 15, 2019; *Eldridge v. Cardif Life Ins. Co.*, 266 F.R.D. 173, 175 (N.D. Ohio 2010) (granting leave to file sur-reply). The sur-reply that Defendants seek leave to file is attached as Exhibit A.

¹ This Motion is submitted by the following Defendants: AmerisourceBergen Corporation; AmerisourceBergen Drug Corporation; Cardinal Health, Inc.; Cardinal Health 110, LLC; McKesson Corporation; Johnson & Johnson; Janssen Pharmaceuticals, Inc.; Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc.; Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc.; Andia, Inc.; Actavis Elizabeth LLC; Actavis Laboratories FL, Inc., and f/k/a Watson Laboratories, Inc.-Florida; Actavis Laboratories UT, Inc. f/k/a Watson Laboratories, Inc.-Salt Lake City; Actavis LLC; Actavis Mid Atlantic LLC; Actavis Pharma, Inc. f/k/a Watson Pharma, Inc.; Actavis South Atlantic LLC; Actavis Totowa LLC; Actavis Kadian LLC; Cephalon, Inc.; Discount Drug Mart, Inc.; Endo Health Solutions Inc.; Endo Pharmaceuticals Inc.; Par Pharmaceutical, Inc.; Par Pharmaceutical Companies, Inc.; H. D. Smith, LLC, f/k/a H. D. Smith Wholesale Drug Co.; Henry Schein, Inc.; Henry Schein Medical Systems, Inc.; Noramco, Inc.; Prescription Supply Inc.; Teva Pharmaceuticals USA, Inc.; Warner Chilcott Company, LLC; and Watson Laboratories, Inc.

Dated: March 16, 2020
New York, NY

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 16, 2020, the foregoing was filed using the Court's CM/ECF filing system and will be served via the Court's CM/ECF filing system on all attorneys of record.

/s/ Kevin M. Jonke
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